

PHYSICAL THERAPY BOARD OF CALIFORNIA

INITIAL STATEMENT OF REASONS

Hearing Date: May 11, 2004

Subject Matter of Proposed Regulations: Control of Physical Therapy Practice

Section(s) Affected: 1399.37.1

SPECIFIC PURPOSE: The Physical Therapy Board of California has determined that the Physical Therapy Practice Act does not prohibit the offering of physical therapy services by a corporation, which is not organized as a professional corporation. This is interpreted to mean that such a non-professional corporation may employ or retain licensed physical therapists to provide physical therapy services and that laypersons may own all or part of the shares of such a corporation. The Physical Therapy Board of California has since found this determination to be problematic when it is misinterpreted and the practice of physical therapy is being controlled by laypersons.

A partner or other person having ownership interest in a professional practice has the right to manage and control the actions of his or her partner or employee. Such a person who is not professionally licensed may not control decisions that effect the professional discretion of the licensee and adversely affect the care of the patient. A layperson that is a shareholder in a corporation providing physical therapy services also may not manage or control the professional actions or practice decisions of a physical therapist in the employ of such a corporation.

The Physical Therapy Board of California proposes to adopt section 1399.37.1 to prohibit a person other than a licensed physical therapist, a physical therapy corporation as specified in section 2690 of the Code, or any other person authorized by law, from directing or controlling the professional practice of physical therapy. The proposed adoption of 1399.37.1 would also specify that a licensed physical therapist who authorizes or permits his or her professional practice to be directed or controlled to be in violation of this section and subject to disciplinary action.

FACTUAL BASIS: This section would prohibit a physical therapist from their professional actions or practice decisions being directed or controlled by anyone other than a licensed physical therapist or any other persons authorized by law. The Physical Therapy Board of California is currently enforcing this position.

UNDERLYING DATA: There is no underlying data.

SMALL BUSINESS IMPACT: The board has determined that the proposed regulatory action would have a significant adverse economic impact on California physical therapy business owned by licensed physical therapist assistants or physical therapy aides since they would be prohibited from providing professional therapy services to the public and would therefore be required to employ a physical therapist assistant or a physical therapy aide to provide physical therapy treatments to patients of their physical therapy practice. However, the Physical Therapy Board of California is currently enforcing this position.

SPECIFIC TECHNOLOGIES OR EQUIPMENT: This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES: No alternative considered would either be more effective than or equally less burdensome than the proposed regulations.